42390P11166 PATENT

REMARKS

Claims 1-37 of the application stand rejected. Claims 1, 9 and 17 have been amended herein to more clearly define the scope of the presently claimed invention. Applicant respectfully requests reconsideration of pending Claims 1-37 in light of the amendments and remarks herein.

Double patenting rejection

The Examiner provisionally rejected Claims 1-37 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-30 of co-pending Application Serial. No. 09/912,427 (Attorney Docket No: P11167, Publication No. US2003/0078968). The Examiner suggests that although the conflicting claims are not identical, they are not patentably distinct from each other because both the present application and 09/946,521 disclose similar elements. Applicant respectfully traverses the Examiner's rejection.

Applicant respectfully submits that the claims in these two applications are in fact patentably distinct. As claimed herein, the invention in the present case is directed to _location-based_ image sharing. In contrast, the invention in co-pending Publication No. US2003/0078968 pertains to image sharing _based on faces_. Applicant respectfully submits that the mere fact that both inventions are directed to the goal of sharing images is irrelevant. What is relevant is the fact that the inventions are directed to different concepts that are patentably distinct.

The Examiner suggests that the reason for the rejection is that "one skilled in the art at the time of the invention having U.S. Publication No. US2003/0078968 would have had no difficulty to modify the conditions set in claims 1-30 of the cited publication in order to derive the limitations of Claims 1-37 of the present application for the same purpose of providing a more automated solution to sharing images such as digital photos or videos as taught by Needham et al. (See Publication No. US2003/0078968 A1 paragraph []0011])". Applicant respectfully submits that this statement is flawed. Specifically, Publication No. US2003/0078968 was filed on July 26th, 2001 while the present invention was filed on June 28th, 2001. In other words, the Examiner is relying

7

42390P11166   PATENT

on the later filed application to render obvious the earlier filed application. Applicant respectfully submits that this is improper. Applicant therefore respectfully requests the Examiner to provide Applicant with additional information to evaluate the Examiner's double patenting rejection. Barring that, Applicant respectfully requests the Examiner to withdraw the double patenting rejection to Claims 1-37.

35 U.S.C. § 102

Claims 1-2, 4-7, 9-11, 13-15, 17-18, 21-23, 25 and 28-37 stand rejected under 35 U.S.C. § 102 as anticipated by Wiryaman, U.S. Patent No. 6,157,401 (hereafter "Wiryaman"). The Examiner submits that Wiryaman teaches all the elements of independent Claims 1, 9, 17, 25 and 31. Applicant respectfully traverses the rejection.

The invention, as claimed in independent Claims 1, 9, 17, 25 and 31 is directed to a system, apparatus, method and article for location-based image sharing. More specifically the elements of these independent claims include the limitations of defining a sharing rule that specifies with which one or more recipients images are shared based on location-identifying information associated with the one or more recipients images, and applying location-identifying information associated with an image to the sharing rule to determine the one or more recipients with which the image should be shared.

Wiryaman, on the other hand, discloses end-point-initiated multipoint video conferencing. The Examiner suggests that various portions of Wiryaman disclose the elements of independent Claims 1, 9, 17, 25 and 31. Specifically, the Examiner states that Wiryaman discloses defining a sharing rule that specifies with which one or more recipients images are shared based on location-identifying information (Col. 3, lines 21-32) and applying location-identifying information associated with an image to the sharing rule to determine the one or more recipients with which the image should be shared (Col. 5, lines 1-9 and 46-54). Applicant strongly disagrees.

Applicants respectfully submit that the Examiner incorrectly interpreted the contents of Wiryaman as it relates to the present invention. For example, Col. 3, lines 21-32 of Wiryaman that the Examiner cites as disclosing defining a sharing rule that specifies with which one or more recipients images are shared based on location-identifying information, in fact states the following:

8

"The communications by which the gatekeeper 18 manages various endpoints' communications occur over a registration, admissions, and status (RAS) channel implemented in messages whose format FIG. 2's first row depicts. The RAS protocol data unit is the payload of an unreliable transport-layer mechanism. In an Internet Protocol (IP) environment, for instance, it would be encapsulated in a User Datagram Protocol (UDP) datagram. As is well known and described in detail in the Internet Community's Requests for Comments ("RFCs") 768 and 1122, a UDP datagram takes the form that FIG. 2's second row depicts."

Applicant submits that there is no mention in this section of either "defining a sharing rule" and/or any mention of "location-identifying information". Similarly, Col. 5, lines 109 and 46-54 of Wiryaman that the Examiner cites as disclosing applying location-identifying information associated with an image to the sharing rule to determine the one or more recipients with which the image should be shared, states:

"So when an endpoint includes a given conference's alias in its ARQ message to the gatekeeper 18, the gatekeeper is able to translate that alias to the appropriate transport-level address in the "destCallSignalAddress" field of the ACF message with which it responds to the requesting endpoint. From the participating endpoints' perspectives, the videoconference then proceeds as usual, but they are in actuality communicating to a greater or lesser degree through the multipoint control unit rather than directly with each other.... The destinationInfo field's format is conventional: it requires no special support on the endpoint's part. In accordance with the present invention, though, the gatekeeper determines whether the destinationInfo field contains what we will call a "compound address." If it detects such an address, it causes a multipoint control unit to set up a conference. Preferably, it is the user who provides the Indicator of whether there is a compound address; no separate endpoint-equipment support is necessary."

Again, Applicant submits that there is no mention in these sections of "applying location-identifying information" to "determine the one or more recipients". The sections highlighted by the Examiner appear to identify devices based on some form of network address rather than their location. It is well known in the art that network addresses may be used to identify devices on a network, but these network addresses do not identify a *physical location* of the device. Thus, the scheme described in Wiryaman is similar to

42390P11166 PATENT

prior art schemes of sharing images, as described in the Background section of the specification (page 2, lines 9-20):

"Many such Web sites also offer a user the ability to send an e-mail to one or more recipients containing a hyperlink to the one or more digital photos to be shared with those recipients. By clicking on the hyperlink in most conventional e-mail software applications, a recipient can be quickly directed to all or some of the digital photos on the Web site through the recipient's browser. In some cases, the recipient may need to *provide authorization information* to gain access to the digital photo(s) because the user may not wish to provide open access or wants to selectively present different digital photos to different users. Another variation on this theme involves sending not a link but the actual digital photo itself to the one or more recipients. In this manner, the user does not need to attach or embed the digital photo into an e-mail; the user simply needs to *identify recipients (and typically their e-mail addresses)* to the Web site and the Web site software generates and sends e-mails including the digital photo(s) to the intended recipients." (emphasis added)

According to embodiments of the present invention, however, the decision about whether to share images is based on *location-identifying* information *associated with the images*. As described in the specification, location-identifying information includes "latitude/longitude coordinates provided by a global positioning system (GPS) included in or interoperating with the camera, manual location-identifying information associated with the image by the user in the camera or in a computer system into which the image is loaded, radio frequency identification (RFID) information provided by a RFID system included in or interoperating with the camera (e.g. a camera capable of reading RFID tags that are used to mark locations such as beacons), or any other location-identifying information associated with an image whether automatically or manually." Wiryaman does not disclose any such location identifying information, as claimed, wherein the location identifying information is associated with the image. Wiryaman therefore does not teach any of the elements of independent Claims 1, 9, 17, 25 and 31. Similarly, since all claims dependant on Claims Claims1, 9, 17, 25 and 31 also incorporate these elements not taught by Wiryaman, Applicants submit that Wiryaman also does not anticipate the dependant claims in the applicationApplicant therefore respectfully requests the

10

42390P11166   PATENT

Examiner to withdraw the 35 U.S.C. § 102 rejections to pending Claims 1-2, 4-7, 9-11, 13-15, 17-18, 21-23, 25 and 28-37.

35 U.S.C. §103

Claims 3, 8, 11-12, 16, 19, 20, 24, 26 and 27 stand rejected under 35 U.S.C. §103 as being unpatentable over the combination of Wiryaman in view of Maali et al., U.S. Patent No. 6,567,775 (hereafter "Maali").

Applicant respectfully points out that since Claims 3, 8, 11-12, 16, 19, 20, 24, 26 and 27 are dependant on independent Claims 1, 9, 17, 25 and 31, the above discussion with respect to the 35 U.S.C. § 102 rejection above is also applicable here. In other words, without addressing the propriety of combining Maali with Wiryaman, Applicant submits that since Wiryaman does not teach all the elements of the independent claims and Maali also docs not teach these elements, the combination of Wiryaman with Maali does not render any of the independent claims unpatentable. Since the dependant claims incorporate all elements of the independent claims, neither of these references, alone or in combination, renders any of the claims unpatentable. Applicant therefore submits that Claims 3, 8, 11-12, 16, 19, 20, 24, 26 and 27 are patentable over Wiryaman and Maali, alone or in combination, and respectfully request the Examiner to withdraw the 35 U.S.C. §103 rejection to these pending claims.
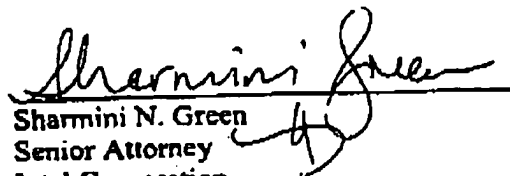
11

PATENT

42390P11166

CONCLUSION

Based on the foregoing, Applicant respectfully submits that the applicable objections and rejections have been overcome and that pending Claims 1-37 are in condition for allowance. Applicant therefore respectfully requests an early issuance of a Notice of Allowance in this case. If the Examiner has any questions, the Examiner is invited to contact the undersigned at (310) 406-2362.

If there are any additional charges, please charge Deposit Account No. 50-0221.

Respectfully submitted,

Dated: December 15, 2004

Sharmini N. Green
Senior Attorney
Intel Corporation
Registration No. 41,410
(310) 406-2362

12